

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS

HAKEEM RASHED WHITE,

Petitioner,

v.

CIVIL ACTION NO. 2:16-CV-89
(BAILEY)

JENNIFER SAAD,
Warden,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge Michael J. Aloi [Doc. 18]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Aloi for submission of a proposed report and recommendation ("R&R"). Magistrate Judge Aloi filed his R&R on October 6, 2017, wherein he recommends this Court grant Respondent's Motion to Dismiss [Doc. 12] and dismiss the petitioner's § 2241 petition [Doc. 1] without prejudice.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v.*

Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Aloi's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). The docket reflects that service was accepted on October 10, 2017 [Doc. 19]. No objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the above, it is the opinion of this Court that the Report and Recommendation [Doc. 18] should be, and is, hereby ORDERED ADOPTED for the reasons more fully stated in the magistrate judge's report. The respondent's Motion to Dismiss [Doc. 12] is GRANTED. Accordingly, this Court ORDERS that the petitioner's § 2241 petition [Doc. 1] be DENIED and DISMISSED WITHOUT PREJUDICE. This Court further DIRECTS the Clerk to enter judgment in favor of the respondent and to STRIKE this case from the active docket of this Court.

As a final matter, upon an independent review of the record, this Court hereby DENIES a certificate of appealability, finding that Mr. White has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

It is so ORDERED.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

DATED: November 2, 2017.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE